



Reprinted  
April 12, 2001

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## ENGROSSED SENATE BILL No. 471

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DIGEST OF SB 471 (Updated April 11, 2001 6:36 PM - DI 98)

**Citations Affected:** IC 12-15; IC 35-46; IC 35-48; noncode.

**Synopsis:** Health. Prohibits an owner or employee at certain health care providers from receiving money or assets as a loan or gift from an individual who receives care from the provider. Makes the penalty for committing the offense a Class A infraction. Permits otherwise prohibited gift if it is made in writing before two disinterested witnesses. Permits a prosecuting attorney to obtain reimbursement. Provides that a Medicaid recipient may not be restricted access to a prescription drug for mental illness. Adds a psychiatrist to the controlled substances advisory committee. Requires the controlled substances advisory committee to review the records maintained by the central repository for controlled substances designated by the state police department regarding the prescribing of stimulant medications to children. Requires the report to contain specified information and to be filed with the legislative council, governor, and medical licensing board by December 1, 2001.

**Effective:** Upon passage; January 1, 2001; July 1, 2001.

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### Miller, Breaux

(HOUSE SPONSORS — KLINKER, BURTON)

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January 22, 2001, read first time and referred to Committee on Health and Provider Services.

February 27, 2001, amended, reported favorably — Do Pass.

March 5, 2001, read second time, amended, ordered engrossed.

March 6, 2001, engrossed.

March 7, 2001, read third time, rule 33(c) technical correction adopted; passed. Yeas 47, nays 0. Engrossed.

#### HOUSE ACTION

March 12, 2001, read first time and referred to Committee on Public Health.

April 9, 2001, amended, reported — Do Pass.

April 11, 2001, read second time, amended, ordered engrossed.

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ES 471—LS 8038/DI 98+



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Reprinted  
April 12, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## ENGROSSED SENATE BILL No. 471

A BILL FOR AN ACT to amend the Indiana Code concerning health, professions and occupations.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 35-46-7 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2001]:

4 **Chapter 7. Offenses Against Persons Receiving Care**

5 **Sec. 1. As used in this chapter, "health care provider" means:**

- 6 (1) a hospital licensed under IC 16-21;  
7 (2) a health facility licensed under IC 16-28;  
8 (3) a housing services establishment that is required to file a  
9 disclosure statement under IC 12-15;  
10 (4) a continuing care retirement community that is required  
11 to file a disclosure statement under IC 23-2-4;  
12 (5) a home health agency licensed under IC 16-27;  
13 (6) a hospice licensed under IC 16-25;  
14 (7) an entity that provides licensed or certified health care  
15 professionals to:  
16 (A) a health care provider; or  
17 (B) a person who is in need of, or receives, professional

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- 1 health care services;
- 2 (8) a community mental health center (as defined in
- 3 IC 12-7-2-38);
- 4 (9) a private psychiatric hospital licensed under IC 12-25;
- 5 (10) a state institution (as defined in IC 12-7-2-184); or
- 6 (11) a community residential facility for the developmentally
- 7 disabled that is licensed under IC 12-28-5.

8 **Sec. 2. This chapter does not apply to the following:**

- 9 (1) A gift or donation of money or other asset given to:
  - 10 (A) a health care provider in the corporate name of the
  - 11 health care provider; or
  - 12 (B) an entity that is organized under Section 501(c)(3) of
  - 13 the Internal Revenue Code.
- 14 (2) A gift or loan of money or other asset given by a person
- 15 who receives services from a health care provider to a
- 16 member of the person's family who:
  - 17 (A) is employed by a health care provider; or
  - 18 (B) owns, wholly or jointly, a health care provider.
- 19 (3) A bequest of personal property or devise of real property
- 20 made in an executable will as described in IC 29-1-5-5 to a
- 21 health care provider, an owner, an employee, or an agent of
- 22 a health care provider.
- 23 (4) The purchase of a security (as defined in IC 23-2-1-1) that
- 24 is traded on a national or regional exchange.
- 25 (5) A gift or gratuity, not exceeding five hundred dollars
- 26 (\$500) in the aggregate per year per protected person, to an
- 27 employee of a health care provider.
- 28 (6) A gift or donation of money or other asset given to
- 29 purchase or otherwise acquire a product, service, or amenity
- 30 for the use, entertainment, or enjoyment of persons receiving
- 31 services from a health care provider.

32 **Sec. 3. (a) The following transactions are subject to the**

33 **requirements of subsection (b):**

- 34 (1) A gift, a donation, a loan, or an investment from a person
- 35 who receives services from a health care provider to an
- 36 owner, employee, or agent of the health care provider in the
- 37 name of the owner, employee or agent.
- 38 (2) A loan or an investment from a person who receives
- 39 services from a health care provider to the health care
- 40 provider in the corporate name of the health care provider.
- 41 (b) A transaction under subsection (a) must be executed in
- 42 writing and witnessed by two (2) disinterested parties. Each



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witness shall sign a document that describes the transaction in the presence of:

- (1) the person who makes the transaction; and
- (2) the other witness.

(c) A health care provider, or an owner, an employee, or an agent of a health care provider, who:

- (1) receives a gift, a donation, a loan, or an investment from a person who receives services from a health care provider; and

(2) fails to conform with the requirements of subsection (b); commits a Class A infraction. Without regard to the amount of the transaction, the court that imposes the penalty for the infraction violation may, upon the request of the prosecuting attorney, order the person to pay the amount received in violation of this section, plus interest from the date of the transaction, to the protected person or the estate of the protected person.

SECTION 2. IC 12-15-26-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001](RETROACTIVE)]: **Sec. 3. A recipient under the Medicaid program may not be denied access to or restricted in the use of a prescription drug for the treatment of a mental illness.**

SECTION 3. IC 12-15-26-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001](RETROACTIVE)]: **Sec. 4. The office and any entity that provides prescription drugs to a Medicaid recipient shall make available to Medicaid recipients prescription drugs that are used for the treatment of a mental illness without any restrictions or limitations, including prior authorization, when the prescription drug is used for the treatment of mental illness.**

SECTION 4. IC 35-48-2-1, AS AMENDED BY P.L.14-2000, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting a report of such recommendations to the legislative council. In making a determination regarding a substance, the board shall consider the following:**

- (1) The actual or relative potential for abuse.
- (2) The scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the substance.



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(4) The history and current pattern of abuse.

(5) The scope, duration, and significance of abuse.

(6) The risk to public health.

(7) The potential of the substance to produce psychic or physiological dependence liability.

(8) Whether the substance is an immediate precursor of a substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) There is established a ~~fifteen (15)~~ **sixteen (16)** member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances not controlled or yet to come into being. In addition, the advisory committee shall conduct hearings and make recommendations to the board regarding revocations, suspensions, and restrictions of registrations as provided in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. The advisory committee shall be made up of:



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- (1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;
- (2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;
- (3) two (2) dentists, one (1) to be elected by the state board of dentistry from among its members and one (1) to be appointed by the governor;
- (4) the state toxicologist or the designee of the state toxicologist;
- (5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;
- (6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;
- (7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:
- (A) elected by the state board of nursing from among the board's members; or
- (B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;
- (8) the superintendent of the state police department or the superintendent's designee; ~~and~~
- (9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances; **and**
- (10) one (1) member appointed by the governor who is a psychiatrist with expertise in adolescent psychology.**
- (g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).
- (h) Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or

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used in IC 7.1, or to tobacco.

(i) The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription.

SECTION 5. [EFFECTIVE JULY 1, 2001] (a) As used in this SECTION, "advisory committee" refers to the controlled substances advisory committee established by IC 35-48-2-1(f).

(b) The advisory committee shall review the records maintained by the central repository for controlled substances designated by the state police department under IC 35-48-7-10 regarding the prescribing of stimulant medications to children.

(c) Not later than December 1, 2001, the advisory committee shall submit a report to the legislative council, the governor, and the medical licensing board established under IC 25-22.5-2-1 regarding the review required under this SECTION.

(d) The report required under subsection (c) must include the following:

(1) A comparison of the percentage of children receiving prescriptions for stimulant medications;

(A) participating in Medicaid (IC 12-15) or the children's health insurance program (IC 12-17.6); and

(B) not participating in a program described in clause (A).

(2) Scientifically determined estimates of the prevalence of major disorders in children who are treated with stimulant medications.

(3) A statement by the advisory committee regarding whether the information provided under subdivisions (1) and (2) indicates that stimulant medications are being disproportionately prescribed for children described in subdivision (1)(A).

(4) Identification of any pattern of prescribing of stimulant medications for children contrary to the most recent guidelines adopted by the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry.

(e) The report required under subsection (c) may not contain any information that:

(1) may be used to identify a child for whom a stimulant medication was prescribed; or

(2) indicates that a particular physician's prescribing of stimulant medications to a child was inappropriate.



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1       (f) Any meeting held by the advisory committee to comply with  
2 this SECTION is not open to the public.

3       (g) Unless otherwise provided by law, records reviewed by the  
4 advisory committee to comply with this SECTION are not public  
5 records.

6       (h) This SECTION expires December 31, 2001.

7       SECTION 6. [EFFECTIVE UPON PASSAGE] (a) The governor  
8 shall appoint a psychiatrist with expertise in adolescent psychology  
9 as an additional member of the controlled substances advisory  
10 committee under IC 35-48-2-1, as amended by this act, before July  
11 1, 2001.

12       (b) This SECTION expires July 1, 2001.

13       SECTION 7. An emergency is declared for this act.

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SENATE MOTION

Mr. President: I move that Senator Breaux be added as coauthor of Senate Bill 471.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 471, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:  
 "SECTION 1. IC 25-23-1-19.5, AS AMENDED BY P.L.83-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 19.5. (a) The board shall establish a program under which advanced practice nurses who meet the requirements established by the board are authorized to prescribe legend drugs. ~~including controlled substances (as defined in IC 35-48-1).~~

(b) The authority granted by the board under this section:

- (1) expires on October 31 of the odd-numbered year following the year the authority was granted or renewed; and
- (2) is subject to renewal indefinitely for successive periods of two (2) years.

(c) The rules adopted under section 7 of this chapter concerning the authority of advanced practice nurses to prescribe legend drugs must do the following:

- (1) Require an advanced practice nurse or a prospective advanced practice nurse who seeks the authority to submit an application to the board.
- (2) Require, as a prerequisite to the initial granting of the authority, the successful completion by the applicant of a graduate level course in pharmacology providing at least two (2) semester hours of academic credit.
- (3) Require, as a condition of the renewal of the authority, the completion by the advanced practice nurse of the continuing education requirements set out in section 19.7 of this chapter.

**(d) A program established under subsection (a) may not allow an advanced practice nurse to prescribe controlled substances (as defined in IC 35-48-1).**

SECTION 2. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "advisory committee" refers to the controlled substances advisory committee established by IC 35-48-2-1(f).**

**(b) The advisory committee shall review the records maintained by the central repository for controlled substances designated by the state police department under IC 35-48-7-10 regarding the prescribing of psychotropic medications to children.**

**(c) Not later than December 1, 2001, the advisory committee**

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shall submit a report to the legislative council, the governor, and the medical licensing board established under IC 25-22.5-2-1 regarding the review required under this SECTION.

(d) The report required under subsection (c) must include the following:

(1) A comparison of the number of prescriptions written for psychotropic medications for children:

(A) participating in Medicaid (IC 12-15) or the children's health insurance program (IC 12-17.6); and

(B) not participating in a program described in clause (A).

(2) A statement by the advisory committee regarding whether the information provided under subdivision (1) indicates that psychotropic medications are being disproportionately prescribed for children described in subdivision (1)(A).

(3) Identification of any pattern of prescribing of psychotropic medications for children contrary to the most recent guidelines adopted by the American Academy of Pediatrics and the American Academy of Child and Adolescent Psychiatry.

(e) The report required under subsection (c) may not contain any information that:

(1) may be used to identify a child for whom a psychotropic medication was prescribed; or

(2) indicates that a particular physician's prescribing of psychotropic medications to a child was inappropriate.

(f) Any meeting held by the advisory committee to comply with this SECTION is not open to the public.

(g) Unless otherwise provided by law, records reviewed by the advisory committee to comply with this SECTION are not public records.

(h) This SECTION expires December 31, 2001."

Delete page 2.

and when so amended that said bill do pass.

(Reference is to SB 471 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 9, Nays 0.



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SENATE MOTION

Mr. President: I move that Senate Bill 471 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT concerning professions and occupations.

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 10.

Renumber all SECTIONS consecutively.

(Reference is to SB 471 as printed February 28, 2001.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure reports that, pursuant to Senate Rule 33(c), the following technical corrections are to be made to Engrossed Senate Bill 471.

Page 1, line 17, delete "heath" and insert "**health**".

(Reference is to ESB 471 as reprinted March 6, 2001.)

GARTON, Chairperson

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 471, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 12-15-26-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001](RETROACTIVE)]: **Sec. 3. A recipient under the Medicaid program may not be denied access to or restricted in the use of a prescription drug for the treatment of a mental illness.**

SECTION 2. IC 12-15-26-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001](RETROACTIVE)]: **Sec. 4. The office and any entity that provides prescription drugs to a Medicaid recipient shall make available to Medicaid recipients prescription drugs that are used for the treatment of a mental illness without any restrictions or limitations, including prior authorization, when the prescription drug is used for the treatment of mental illness.**

SECTION 3. IC 35-48-2-1, AS AMENDED BY P.L.14-2000, SECTION 77, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) The board shall administer this article and may recommend to the general assembly the addition, deletion, or rescheduling of all substances listed in the schedules in sections 4, 6, 8, 10, and 12 of this chapter by submitting a report of such recommendations to the legislative council. In making a determination regarding a substance, the board shall consider the following:

- (1) The actual or relative potential for abuse.
- (2) The scientific evidence of its pharmacological effect, if known.
- (3) The state of current scientific knowledge regarding the substance.
- (4) The history and current pattern of abuse.
- (5) The scope, duration, and significance of abuse.
- (6) The risk to public health.
- (7) The potential of the substance to produce psychic or physiological dependence liability.
- (8) Whether the substance is an immediate precursor of a

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substance already controlled under this article.

(b) After considering the factors enumerated in subsection (a), the board shall make findings and recommendations concerning the control of the substance if it finds the substance has a potential for abuse.

(c) If the board finds that a substance is an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

(d) If any substance is designated or rescheduled to a more restrictive schedule as a controlled substance under federal law and notice is given to the board, the board shall recommend similar control of the substance under this article in the board's report to the general assembly, unless the board objects to inclusion or rescheduling. In that case, the board shall publish the reasons for objection and afford all interested parties an opportunity to be heard. At the conclusion of the hearing, the board shall publish its findings.

(e) If a substance is rescheduled to a less restrictive schedule or deleted as a controlled substance under federal law, the substance is rescheduled or deleted under this article. If the board objects to inclusion, rescheduling, or deletion of the substance, the board shall notify the chairman of the legislative council not more than thirty (30) days after the federal law is changed and the substance may not be rescheduled or deleted until the conclusion of the next complete session of the general assembly. The notice from the board to the chairman of the legislative council must be published.

(f) There is established a ~~fifteen (15)~~ **sixteen (16)** member controlled substances advisory committee to serve as a consultative and advising body to the board in all matters relating to the classification, reclassification, addition to, or deletion from of all substances classified as controlled substances in schedules I to IV or substances not controlled or yet to come into being. In addition, the advisory committee shall conduct hearings and make recommendations to the board regarding revocations, suspensions, and restrictions of registrations as provided in IC 35-48-3-4. All hearings shall be conducted in accordance with IC 4-21.5-3. The advisory committee shall be made up of:

- (1) two (2) physicians licensed under IC 25-22.5, one (1) to be elected by the medical licensing board of Indiana from among its members and one (1) to be appointed by the governor;
- (2) two (2) pharmacists, one (1) to be elected by the state board of pharmacy from among its members and one (1) to be appointed by the governor;



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(3) two (2) dentists, one (1) to be elected by the state board of dentistry from among its members and one (1) to be appointed by the governor;

(4) the state toxicologist or the designee of the state toxicologist;

(5) two (2) veterinarians, one (1) to be elected by the state board of veterinary medical examiners from among its members and one (1) to be appointed by the governor;

(6) one (1) podiatrist to be elected by the board of podiatric medicine from among its members;

(7) one (1) advanced practice nurse with authority to prescribe legend drugs as provided by IC 25-23-1-19.5 who is:

(A) elected by the state board of nursing from among the board's members; or

(B) if a board member does not meet the requirements under IC 25-23-1-19.5 at the time of the vacancy on the advisory committee, appointed by the governor;

(8) the superintendent of the state police department or the superintendent's designee; ~~and~~

(9) three (3) members appointed by the governor who have demonstrated expertise concerning controlled substances; **and**

**(10) one (1) member appointed by the governor who is a psychiatrist with expertise in adolescent psychology.**

(g) All members of the advisory committee elected by a board shall serve a term of one (1) year and all members of the advisory committee appointed by the governor shall serve a term of four (4) years. Any elected or appointed member of the advisory committee, may be removed for cause by the authority electing or appointing the member. If a vacancy occurs on the advisory committee, the authority electing or appointing the vacating member shall elect or appoint a successor to serve the unexpired term of the vacating member. The board shall acquire the recommendations of the advisory committee pursuant to administration over the controlled substances to be or not to be included in schedules I to V, especially in the implementation of scheduled substances changes as provided in subsection (d).

(h) Authority to control under this section does not extend to distilled spirits, wine, or malt beverages, as those terms are defined or used in IC 7.1, or to tobacco.

(i) The board shall exclude any nonnarcotic substance from a schedule if that substance may, under the Federal Food, Drug, and Cosmetic Act or state law, be sold over the counter without a prescription."

Page 1, line 7, delete "psychotropic" and insert "**stimulant**".



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Page 1, line 14, delete "number of prescriptions written for" and insert **"percentage of children receiving prescriptions for stimulant medications;"**.

Page 1, delete line 15.

Page 1, line 17, delete "heath" and insert **"health"**.

Page 2, between lines 1 and 2, begin a new line block indented and insert:

**"(2) Scientifically determined estimates of the prevalence of major disorders in children who are treated with stimulant medications."**

Page 2, line 2, delete "(2)" and insert **"(3)"**.

Page 2, line 3, delete "subdivision" and insert **"subdivisions"**.

Page 2, line 3, after "(1)" insert **"and (2)"**.

Page 2, line 4, delete "psychotropic" and insert **"stimulant"**.

Page 2, line 6, delete "(3)" and insert **"(4)"**.

Page 2, line 6, delete "psychotropic" and insert **"stimulant"**.

Page 2, line 13, delete "psychotropic" and insert **"stimulant"**.

Page 2, line 16, delete "psychotropic" and insert **"stimulant"**.

Page 2, after line 22, begin a new paragraph and insert:

**"SECTION 5. [EFFECTIVE UPON PASSAGE] (a) The governor shall appoint a psychiatrist with expertise in adolescent psychology as an additional member of the controlled substances advisory committee under IC 35-48-2-1, as amended by this act, before July 1, 2001.**

**(b) This SECTION expires July 1, 2001.**

**SECTION 6. An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 471 as reprinted March 6, 2001.)

BROWN C, Chair

Committee Vote: yeas 11, nays 3.

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## HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 471 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health, professions and occupations.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert: SECTION 1. IC 35-46-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

**Chapter 7. Offenses Against Persons Receiving Care**

**Sec. 1. As used in this chapter, "health care provider" means:**

- (1) a hospital licensed under IC 16-21;
- (2) a health facility licensed under IC 16-28;
- (3) a housing services establishment that is required to file a disclosure statement under IC 12-15;
- (4) a continuing care retirement community that is required to file a disclosure statement under IC 23-2-4;
- (5) a home health agency licensed under IC 16-27;
- (6) a hospice licensed under IC 16-25;
- (7) an entity that provides licensed or certified health care professionals to:
  - (A) a health care provider; or
  - (B) a person who is in need of, or receives, professional health care services;
- (8) a community mental health center (as defined in IC 12-7-2-38);
- (9) a private psychiatric hospital licensed under IC 12-25;
- (10) a state institution (as defined in IC 12-7-2-184); or
- (11) a community residential facility for the developmentally disabled that is licensed under IC 12-28-5.

**Sec. 2. This chapter does not apply to the following:**

- (1) A gift or donation of money or other asset given to:
  - (A) a health care provider in the corporate name of the health care provider; or
  - (B) an entity that is organized under Section 501(c)(3) of the Internal Revenue Code.
- (2) A gift or loan of money or other asset given by a person who receives services from a health care provider to a member of the person's family who:
  - (A) is employed by a health care provider; or
  - (B) owns, wholly or jointly, a health care provider.



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(3) A bequest of personal property or devise of real property made in an executable will as described in IC 29-1-5-5 to a health care provider, an owner, an employee, or an agent of a health care provider.

(4) The purchase of a security (as defined in IC 23-2-1-1) that is traded on a national or regional exchange.

(5) A gift or gratuity, not exceeding five hundred dollars (\$500) in the aggregate per year per protected person, to an employee of a health care provider.

(6) A gift or donation of money or other asset given to purchase or otherwise acquire a product, service, or amenity for the use, entertainment, or enjoyment of persons receiving services from a health care provider.

**Sec. 3. (a) The following transactions are subject to the requirements of subsection (b):**

(1) A gift, a donation, a loan, or an investment from a person who receives services from a health care provider to an owner, employee, or agent of the health care provider in the name of the owner, employee or agent.

(2) A loan or an investment from a person who receives services from a health care provider to the health care provider in the corporate name of the health care provider.

**(b) A transaction under subsection (a) must be executed in writing and witnessed by two (2) disinterested parties. Each witness shall sign a document that describes the transaction in the presence of:**

(1) the person who makes the transaction; and

(2) the other witness.

**(c) A health care provider, or an owner, an employee, or an agent of a health care provider, who:**

(1) receives a gift, a donation, a loan, or an investment from a person who receives services from a health care provider; and

(2) fails to conform with the requirements of subsection (b); commits a Class A infraction. Without regard to the amount of the transaction, the court that imposes the penalty for the infraction violation may, upon the request of the prosecuting attorney, order the person to pay the amount received in violation of this section, plus interest from the date of the transaction, to the protected person or the estate of the protected person.

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Renumber all SECTIONS consecutively.

(Reference is to ESB 471 as printed April 9, 2001.)

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